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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,189	08/01/2003	C. Patrick Doherty	01-0846.1	3171
22823	7590	06/30/2004	EXAMINER	
STEPHEN A GRATTON THE LAW OFFICE OF STEVE GRATTON 2764 SOUTH BRAUN WAY LAKEWOOD, CO 80228				NGUYEN, JIMMY
			ART UNIT	PAPER NUMBER
			2829	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/633,189	DOHERTY ET AL. <i>[Signature]</i>
	Examiner	Art Unit
	Jimmy Nguyen	2829

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication..
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 August 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 56 - 100 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 56 - 100 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 0604.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Claims Status

The examiner acknowledges that claims 1 – 55 have been canceled. Claims 56 – 100 are pending in application.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 56 – 100 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 55 of U.S. Patent No. 6677776.

Matching claims

Application 10/633189

US patent 6677776

56 -100

1 – 55

Although the conflicting claims are not identical, they are not patentably distinct from each other because they are still in the same scope of the invention.

3. Claims 56 –76 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 20 of U.S. Patent No. 6433574.

10/633189

US 6433574

Matching claims

56 – 76

1 - 20

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims invention are still in the scope of US 6433574. Further, it would have been obvious to one having an ordinary skill in the art at the time of the invention was made to perform the burn in, parametric or function test for the purpose of testing device in different environment.

1. Claims 77 – 100 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 -26 of U.S. Patent No. 6466047.

2. Claims 77 - 100 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 -19 of U.S. Patent No. 6246250.

3. Claims 77 – 100 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 -20 of U.S. Patent No. 6337577.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy Nguyen at (703) 306-5858. Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4900.

JN.
June 24, 2004

David L. Farneker
David L. Farneker
Primary Exam
6/26/04